

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: B. T. Tolton et al. Attorney Docket No.: LAMA122586  
Application No.: 10/799,444 Art Unit: 2884 / Confirmation No: 6250  
Filed: March 12, 2004 Examiner: Djura Malevic  
Title: REMOTE SENSING OF GAS LEAKS

**REQUEST FOR REFUND**

January 30, 2008

DIRECTOR – U.S. PATENT AND TRADEMARK OFFICE:

ATTENTION: Refund Section, Accounting Division, Office of Finance

I. Refund Request

This is a request for a refund with respect to a charge to Deposit Account No. 03-1740 shown on the statement dated December 31, 2007, for the above-identified patent application. A copy of the relevant page of the monthly statement accompanies this request.

II. Fee Paid for Which Refund Requested

	Amount of Refund Requested
Extension of Term (Fee Code 2252)	
Balance of second-month extension of time	\$170
<b>(1-month extension requested; 2-month extension charged)</b>	
<u>Total Refund Requested:</u>	<b>\$170</b>

III. Explanation of Why Payment Is in Error

On page 2 of the Advisory Action dated October 22, 2007 (copy submitted herewith), the box was checked which states, "The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, **whichever is later.**" (Emphasis added.)

The final rejection, dated June 5, 2007, sets forth the standard time frame for such action: "A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION." The 3-month date was September 5, 2007. The expiration date of October 22, 2007 (the date of the Advisory Action), is later.

LAW OFFICES OF  
CHRISTENSEN O'CONNOR JOHNSON KINDNESS<sup>PLC</sup>  
1420 Fifth Avenue  
Suite 2800  
Seattle, Washington 98101  
206.682.8100

A response to the Advisory Action was electronically filed and received on November 21, 2007, which is 30 days past October 22, 2007. Therefore, a 1-month extension of time was requested to be charged to our Deposit Account No. 03-1740. However, the PTO incorrectly charged us the fee for a 2-month extension. We corroborated with the Inventors Assistance Center that the response was timely filed in compliance with the time period set forth in the Advisory Action. Therefore, we are requesting a refund of the difference between the 1-month extension fee of \$60 and the 2-month extension fee of \$230, which is thus \$170.

IV. Manner of Refund

Please provide us with a refund by crediting Deposit Account No. 03-1740.

Respectfully submitted,

CHRISTENSEN O'CONNOR  
JOHNSON KINDNESS<sup>PLLC</sup>



Kevan L. Morgan  
Registration No. 42,015  
Direct Dial No. 206.695.1712

Enclosures:

Copy of Advisory Action dated 10/22/2007 (pp. 1-2)

Copy of Monthly Statement of Deposit Account dated 12/31/07 (p. 1)

KLM:ctg

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,444	03/12/2004	Boyd T. Tolton	LAMA122586	6250

26389 7590 10/22/2007  
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC  
1420 FIFTH AVENUE  
SUITE 2800  
SEATTLE, WA 98101-2347

EXAMINER

MALEVIC, DJURA

ART UNIT PAPER NUMBER

2884

MAIL DATE DELIVERY MODE

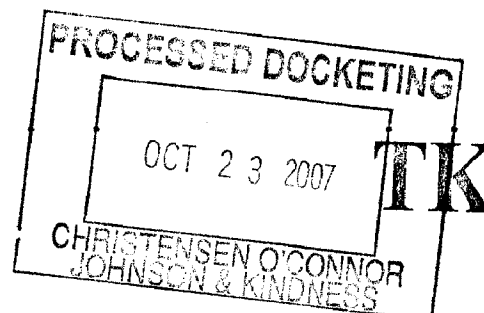
10/22/2007

PAPER

DOCKETED

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



CMC

**Advisory Act**  
**Before the Filing of an Appeal Brief**

Application No.

10/799,444

Applicant(s)

TOLTON ET AL.

Examiner

Djura Malevic

Art Unit

2884

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ They raise the issue of new matter (see NOTE below);
  - (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-18,20-25.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_.



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